

In re) Fair Hearing No. 9597
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Appeal of)

The petitioner appeals the decision by the Department of Social Welfare denying her application for Medicaid. The issue is whether the petitioner is disabled within the meaning of the pertinent regulations.

The petitioner is a 29-year-old woman with a high school education and some additional vocational training in advertising, retailing, and office procedures. She has had sporadic jobs in each of these fields.

[Petitioner] has had Crohn's disease (Regional Enteritis) for over ten years. At this time the entire Colon distal Ileum and Stomach are involved with early obstructive lesions on the distal ileum. She suffers from cramping, diarrhea and G.I. bleeding with recurrent anemia, weight loss and malnutrition secondary to malabsorption. Until a few months ago she worked part time but is unable to do this now, despite

large doses of Prednisone. At this time she is not capable of working nor will she be able to in the foreseeable future.

In another note, dated February 8, 1990, apparently written after he had learned of the denial of the petitioner's disability claim, the petitioner's family doctor wrote (referring to a form residual functional capacity assessment of the petitioner he had been asked to fill out):

The enclosed sheet is worthless for [petitioner]. One week she might be able to work 1 or 2 days part time, another none. She has chronic recurrent pain, nausea, severe cramping and bloody diarrhea. I know of no job she could take that would allow for recurrent and chronic absenteeism. This disease is serious and progressive with chronic anemia and hypoproteinemia. She may need bowel resection at some time with no guarantee that the disease will improve.

The above assessments of the petitioner's condition are uncontroverted by any other evidence of record. The department does not allege the existence of jobs that would accommodate the above-described limitations.

Based on the above, it is found that the petitioner, since at least September, 1989, has been unable to engage in any substantial gainful activity on a regular and sustained basis. Due to the progressive nature of her disease, and the lack of any indication in the medical evidence that effective treatment is forthcoming, it is found that the petitioner's disability will likely last at least 12 consecutive months.

ORDER

The department's decision is reversed.

REASONS

Medicaid Manual Section M211.2 defines disability as follows:

Disability is the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment, or combination of impairments, which can be expected to result in death or has lasted or can be expected to last for a continuous period of not fewer than twelve (12) months. To meet this definition, the applicant must have a severe impairment, which makes him/her unable to do his/her previous work or any other substantial gainful activity which exists in the national economy. To determine whether the client is able to do any other work, the client's residual functional capacity, age, education, and work experience is considered.

Based on the uncontroverted evidence cited above, it must be concluded that the petitioner meets the above definition. The department's decision is, therefore, reversed.

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